

Simeon M. Herskovits, Nevada Bar No. 11155
Iris Thornton, *pro hac vice*
Advocates for Community and Environment
P.O. Box 1075
El Prado, New Mexico 87529
Phone: (575) 758-7202
Fax: (575) 758-7203
Email: simeon@communityandenvironment.net
Email: iris@communityandenvironment.net

Sean A. Rowe, Nevada Bar No. 10977
Mineral County District Attorney
P.O. Box 1210
Hawthorne, Nevada 89415
Phone: (775) 945-3636
Fax: (775) 945-0740
Email: srowe@mineralcountynv.org

Attorneys for Mineral County

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,

Defendants.

MINERAL COUNTY,

Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,

Defendants.

IN EQUITY NO. C-125-RCJ-WGC
Subproceeding: C-125-C
3:73-CV-00128-RCJ-WGC

MINERAL COUNTY REPORT ON
STATUS OF SERVED
DEFENDANTS AND NEWLY
ADDED DEFENDANTS TO BE
SERVED

Pursuant to the Court's direction in the telephonic status conference held on December 6, 2012, Mineral County, Nevada, by and through its undersigned counsel, respectfully submits the following Report on the Status of Served Defendants and Newly Added Defendants to be Served. This Report summarizes the number and status of identified defendants who have been served in the C-125-C subproceeding (3:73-CV-00128-RCJ-WGC) under Federal Rule of Civil Procedure 4, in order to give the Court and the Parties an overview of the "universe" of defendants who must be dealt with as this case moves forward. This "universe" includes defendants who have entered appearances through counsel, defendants who have entered appearances without legal representation, and defendants who have been served but who have not entered an appearance or otherwise responded to service. In addition, this Report briefly summarizes the scope of service newly ordered in the C-125-C subproceeding by the Court in the September 23, 2013, hearing and the November 4, 2013, status conference, which requires Mineral County to complete Rule 4 service on holders of riparian water rights within the Walker River basin under California law who have not already been served as a result of other surface appropriative water rights they may own.

At the status conference held on September 6, 2013, the Court confirmed that Mineral County had properly served all identified defendants in the C-125-C subproceeding as of that time. *See Minutes of Proceedings*, at 2 (Doc. No. 725). While Mineral County served over 1,000 proposed defendants between the filing of its Motion and Complaint in Intervention and the completion of initial service, as a result of the dismissal of inappropriate persons who had been served and the elimination of duplications in the caption, the final list of proper defendants who have been served consists of 999 defendants as reflected in the caption for subproceeding C-

1 125-C that was approved by the Court on November 1, 2013, and which reflects all orders of the
2 Court up to that date. (*See* Doc. No. 729).

3 Of the nine hundred ninety-nine (999) defendants who have been served and are listed in
4 the current caption, twenty-nine (29) have entered an appearance through counsel, twenty (21)
5 have appeared and are unrepresented by counsel, three (3) have sent notices of appearance to
6 Mineral County but appear not to have filed the notices of appearance with the Court, and nine
7 Hundred Forty-Five (946) Defendants did not respond to Rule 4 personal service. Exhibit A to
8 this Service Report is a list that includes the appearance status for all served identified
9 Defendants in subproceeding C-125-C.
10

11 Exhibits B-1 to B-3 are the notice of appearance forms that those last three served
12 defendants have sent to Mineral County but not the Court. Mineral County has contacted these
13 three Defendants and notified them that the notices of appearance must be filed with the Court.
14 In the meantime, Mineral County proposes that these three defendants be treated as
15 unrepresented parties for purposes of rule 5 service in subproceeding C-125-C. The names of
16 these three defendants are: (1) David and Karen Hardy Family Trust, David E. and Karen L.
17 Hardy, Trustees; (2) Rene Presto; and (3) Presto Family Trust Agreement dated August 16, 1990,
18 Beatrice Presto, et al., Trustees. Mineral County has listed them in the unrepresented parties
19 category in Exhibit A.
20

21 At the time the caption was confirmed and Rule 4 service was ratified on those listed in
22 the caption, the list of identified defendants did not include holders of non-appropriative riparian
23 water rights in California. At the status conference held on November 4, 2013, the Court
24 directed Mineral County to join and effect Rule 4 service on these California riparian water
25 rights holders. Based on statements made to the Court by a number of parties, discussions
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1 between Mineral County and counsel for the United States, and discussion with its process server
2 (who also is the process server for the United States), Mineral County believes that there are
3 somewhat more than 400 additional defendants who will need to be served under Rule 4. In
4 commencement of the process of identifying these additional defendants with certainty and
5 serving them, Mineral County has contacted attorneys for the California state agencies, Mono
6 County, and the United States to obtain information for the compilation of the list of riparian
7 owners remaining to be served.
8

9 Because Mineral County had completed service on the list of identified defendants that
10 was established prior to the Court's addition of California riparian water rights, the County did
11 not have any funds budgeted or available for additional service efforts in the current year.
12 However, the County expects to provide the necessary funds for completion of service by the
13 time the list of California riparian water rights holders who remain to be served is completed.
14 Mineral County believes that list will be completed by January 31, 2014. Once the list is
15 completed and Mineral County has allocated the funds to complete services, Mineral County
16 projects that it will take between four and six months to complete Rule 4 service on the
17 remaining unserved California riparian water rights holders. Once the list of riparian water
18 rights owners is completed, Mineral County proposes to file that list with the Court and request
19 authorization to complete service on those additional defendants in accordance with procedures
20 that have been followed to date. *See Court's August 2, 2012 Order Relating to Completion of*
21 *Service*, Doc. No. 605.
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Rule 5 Service of this Filing:

Mineral County has served this filing consistent with previous direction of the Court regarding Rule 5 service of procedural and service related filings. *See* Doc. No. 591. Accordingly, the primary parties will be served either via electronic service or in hard copy if they are not registered for electronic service.

Respectfully Submitted,

/s/ Simeon Herskovits

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Attorneys for Mineral County

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December, 2013, I electronically filed the foregoing MINERAL COUNTY REPORT ON STATUS OF SERVED DEFENDANTS AND NEWLY ADDED DEFENDANTS TO BE SERVED with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses that are registered for this case; and I further certify that on this 31st day of December, 2013, I caused a hard copy of the forgoing to be served on the following non CM/ECF primary Defendant participants by U.S. Mail, postage prepaid:

Athena Brown, Superintendent
Western Nevada Agency
Bureau of Indian Affairs
311 E. Washington Street
Carson City, NV 89701-4065

State Engineer - Division of Water
Resources
State of Nevada
901 S. Stewart St., Suite 202
Carson City, NV 89701

Arthur B. Walsh
Los Angeles City Attorney's Office
P.O. Box 51-111
111 North Hope Street, Suite 340
Los Angeles, CA 90054

Leo Drozdoff
Dept. of Conservation & Natural Res.
State of Nevada
901 S. Stewart St.
Suite 1003
Carson City, NV 89701

Dist. Attorney for Lyon County
31 South Main Street
Yerington, NV 89447

/s/ Noel Simmons
Noel Simmons